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PEN Protests Proposed Bill On Agent Disclosure

PEN American Center, in two separate actions, has protested proposed legislation that it fears would expand the CIA's power to control information. PEN objected in particular to Section 501 (c) of proposed Senate bill 2216, Intelligence Identities Protection Act, which "goes beyond the control of publication by employees and former employees (as in the Snepp ruling) to include the writing of non-employees using unclassified information."

Testifying for PEN before the Senate Judiciary Committee on September 5, Sol Yurick, author of four novels including "The Warriors," said, "While there is no provision in the Constitution for freedom of the imagination, surely this law would force prior restraint not only on my speech, but on my imagination."

He could easily foresee instances, Yurick said, in which he could learn the names of agents merely by reading newspapers and books or by listening to gossip. If he inserted the names into

a work of fiction, he would be subject to prosecution under the law as proposed by the Senate Intelligence Committee, he said.

"To put it another way, the [proposed] law allows for what is, in effect, an invasion of the mind itself, for one is enjoined to forget what one has learned," Yurick said. Noting that he may not have known that the information he was publishing was proscribed, he asked rhetorically, "Have I committed a crime? In short, am I stopped from practicing my livelihood?"

In a letter of September 12 to each member of the Senate Judiciary Committee, writer Bernard Malamud, PEN's president, urged deletion of the section banning publication of agent names. Malamud called the section "potentially an enormously grave threat to the First Amendment."

"I am sure you will agree that the possibility of a writer being prosecuted for using information already in the public domain runs counter to the very tenets of free expression," he told the Senators.

The legislation was intended to curb

specific publications. But, Malamud said, "Efforts to curb activities of a few individuals through sweeping legislations of this sort endanger the well-being of American literature and of this nation as a whole."

On September 17 the Senate Judiciary Committee attempted a compromise of sorts by voting, 8-6, to send to the Senate floor a bill that would exempt from the ban writers and publications that disclose agents' names if the disclosure occurred as an "integral part" of constitutionally protected activities.

Representatives of the American Civil Liberties Union told reporters the change, offered by Chairman Edward M. Kennedy (D., Mass.), was aimed at convincing the Carter administration to work with Congress to try to resolve the constitutional problems posed.

Differing versions of the proposed legislation have now reached the floor of each house, giving the bills the stamp of controversy at a time when Congress was trying to avoid difficult measures in order to adjourn for a month of campaigning. The House version, scheduled for floor action the week of September 15, was set aside for other legislation.

H.F.